

STATEMENT OF COMMON GROUND

Appeal by Countryside Partnerships (Eastern Home Counties) under S.78 1990 Act

Proposal:	Construct 173 No. dwellings including public open space, landscaping, access, drainage, parking, servicing, utilities and all associated infrastructure and ancillary buildings
LPA Ref:	22/0484/FUL
Site:	Land at Brook Farm, Daws Heath Road, Hadleigh, Essex, SS7 2UG
"The Parties":	Appellant – Countryside Partnerships (Eastern Home Counties) LPA – Castle Point Borough Council (CPBC)

Common Ground

The following matters are not in dispute:

1. The Appeal Site and Surroundings
 - 1.1 The site is located in the Metropolitan Green Belt and lies directly east of Daws Heath Road from which it is currently accessed by vehicle and on foot and directly south-east of the settlement of Daws Heath. The site comprises land at Brook Farm and extends to approximately 19 hectares in total.
 - 1.2 The site itself includes buildings associated with Brook Farm. There are four existing buildings on the site. The existing dwelling is a two-storey pitched roof property. The stables and other existing buildings are all single storey in nature.
 - 1.3 The Council, at paragraph 15.22 of the officer's Committee report, confirm that this *"includes an area of previously developed, or brownfield land"*.
 - 1.4 The remainder of the site comprises hedgerows and tree lined fields and paddock which extend eastward from Daws Heath Road. None of the trees on site are the subject of a Tree Preservation Order (TPO).
 - 1.5 Existing residential development bounds the site to the north (Fairmead Avenue & Haresland Court). Residential development is also located further south beyond a further area of green space outside of the site. This includes a small number of existing properties served off Daws Heath Road and further south in Southfields Drive and Southfields Close.
 - 1.6 The site gently slopes from north to south with the central element of the site also gently sloping from west to east.
 - 1.7 Prittle Brook runs west to east along the site's southern boundary separating it from Dodd's Grove.
 - 1.8 The site is entirely within Flood Zone 1 (Low Risk).

2. Sustainability of the Appeal Site

- 2.1 The site would offer the opportunity for alternative means of travel to the use of the private car as the officer Committee report at paragraph 37.10 confirms.

3. Planning Application History

- 3.1 The site has no relevant planning application history outside the application the subject of this Appeal.

4. Planning Policy History

- 4.1 In terms of planning policy and draft new Local Plans in the borough, as with both the 2014 and 2016 draft Local Plans, the recently withdrawn Pre-Submission Local Plan (2018-2033 also included the appeal site as a new housing allocation under Policy HO14 to deliver up to 173 new homes and associated development by 2033.
- 4.2 The appeal site is one of only two sites (together with The Chase in Thundersley) to be allocated for major new residential development within the 2014, 2016 and 2019 drafts of the LPA's new Local Plan.
- 4.3 The parties agree that there has been no strategic review of the boundaries of the Green Belt in Castle Point since the adoption of the Local Plan in November 1998.

5. EIA Screening Opinion

- 5.1 A formal request for a Screening Opinion was submitted to CPBC on 4th May 2022.
- 5.2 The Screening Opinion from CPBC dated 25th May 2022 (ref: 22/0375/SCREEN) concluded that:

"The proposal has been considered against the selection criteria in Schedule 3 of the 2017 Regulations and advice contained in Planning Practice Guidance on Environmental Impact Assessment, including its associated annex. It is not considered that the proposed development would have significant effects on the environment by virtue of factors such as its nature, size or location. Therefore, under Regulation 6 of the 2017 EIA Regulations, it is concluded that the proposed development is not EIA development and that an Environmental Impact Assessment is not required."

- 5.3 It should also be noted that the Screening Opinion was issued prior to the withdrawal of the emerging Local Plan which would, had it been formally adopted, have allocated new residential development sites which were considered within the Screening Opinion. This included its assessment of whether the cumulative impacts could have had significant effects on the environment. Further to the formal withdrawal of the Local Plan, there is no 'planned' development in the borough.
- 5.4 The conclusions of the Screening Opinion remain valid, but it should be noted that the potential cumulative effects on the environment have significantly lessened further to the emerging Local Plan's withdrawal.

6. Description of the Proposals

6.1 The parties agree that the 'description' of the application is:

Construct 173 No. dwellings including public open space, landscaping, access, drainage, parking, servicing, utilities and all associated infrastructure and ancillary buildings.

7. Scope of Application

7.1 The proposed development has been submitted as a full detailed planning application with the final list of proposed plans and documents and those against which the determination of the planning application was made are as follows.

Plans

Title	Plan No.
Site Location Plan	001 Rev PL01
Proposed Site Layout Plan	300 Rev PL01
Proposed Storey Heights Plan	310 Rev PL01
Proposed Housing Tenure Plan	311 Rev PL01
Proposed Parking Plan	312 Rev PL01
Proposed Housing Mix Plan	313 Rev PL01
Proposed Back-to-Back Plan	314 Rev PL01
Proposed Movement Plan	315 Rev PL01
Proposed Garden Size Plan	316 Rev PL01
Proposed Materials Plan	317 Rev PL01
Proposed Refuse Strategy Plan	318 Rev PL01
Proposed Boundary Treatment Plan	319 Rev PL01
House Type 2 Bed Affordable Type A	320 Rev PL01
House Type 2 Bed Affordable Type B	321 Rev PL01
House Type 3 Bed Affordable Type B	322 Rev PL01
House Type 3 Bed Affordable Type B	323 Rev PL01
House Type 3Bed Affordable Type C	324 Rev PL01
Apartment Type A Floor Plan	326 Rev PL01
Apartment Type A Elevations	327 Rev PL01
Apartment Type B Floor Plan	328 Rev PL01
Apartment Type B Elevations	329 Rev PL01
2 Bed Bungalow Affordable	330 Rev PL01
House Type 301 Type A	332 Rev PL01
House Type 301 Type B	333 Rev PL01
House Type 305 Type A	334 Rev PL02
House Type 305 Type B	335 Rev PL02
House Type 1184	336 Rev PL01
House Type 309	338 Rev PL01
House Type 1002 Type A	339 Rev PL02
House Type 1002 Type B	340 Rev PL02
House Type 412	343 Rev PL01

House Type 419	344 Rev PL01
House Type 500 Type A	345 Rev PL02
House Type 500 Type B	346 Rev PL01
Single Garage	350 Rev PL01
Double Garage	351 Rev PL01
Proposed Street Scenes 1 of 2	355 Rev PL01
Proposed Street Scenes 2 of 2	356 Rev PL02
Apartment Block Cycle Store	385 Rev PL01
Apartment Block Refuse Store	386 Rev PL01
Landscape and Open Space Strategy Plan	LV-0006 Rev S3-P2

Documents

Document Title	Date
Arboricultural Report and Tree Condition Survey	May 2022
Archaeological Desk Based Assessment ref: JAC 28057	May 2022
Daws Heath 3.1 Metric Rev B	
Design & Access Statement ref: 106.0	14 th January 2022
Desk Study & Risk Assessment Report	1 st June 2022
Ecological Impact Assessment and Biodiversity Net Gain Assessment	October 2023
Flood Risk Assessment and Drainage Strategy ref: W461-03	June 2022
Health Impact Assessment	May 2022
Landscape Management and Maintenance Plan	1 st June 2022
Landscape and Visual Impact Assessment	1 st June 2022
Noise Assessment ref: W461-02	June 2022
Planning Statement	May 2022
Shadow Habitat Regulations Assessment and Statutory Designated Sites Impact Assessment	June 2022
SUDs Technical Assessment Pro Forma	
Sustainability and Energy Statement	June 2022
Transport Statement	June 2022
Transport Assessment Addendum	July 2022
Utilities and Services Document ref: W-461-01	June 2022

7.2 The list of final plans above differs from those set out on the Decision Notice dated 20th March 2024.

8. Adopted Local Plan

8.1 Both parties will provide commentary on the Adopted Local Development Plan, NPPF and Planning Practice Guidance (PPG). Reference will be made to other relevant policy documentation in the form of Supplementary Planning Documents, Annual Monitoring Reports etc.

- 8.2 The Decision Notice clarifies which policies were used in determining the planning application. No policies of the adopted Local Plan are relied upon and instead the sole reason for refusal relates only to policy within the NPPF relating to new development in the Green Belt.
- 8.3 The parties agree that there are no saved policies in the Castle Point Local Plan (November 1998) relevant to the control of development in the Green Belt. At the time policies were saved by Government, policies that replicated Government Policy were not saved.
- 8.4 The parties agree that the adopted Local Plan Saved policies listed below are the only Development Plan policies applicable in the determination of this appeal:
- Policy EC2 – Design;
 - Policy EC3 – Residential Amenity;
 - Policy EC4 – Pollution;
 - Policy EC13 – Protection of Wildlife and their Habitats;
 - Policy EC14 – Creation of New Wildlife Habitats;
 - Policy EC2 – Retention of Trees, Woodlands and Hedgerows;
 - Policy H9 – New Housing Densities;
 - Policy H10 – Mix of Development;
 - Policy T8 – Car Parking Standards;
 - Policy RE4 – Provision of Children’s Playspace and Parks;
 - Policy CF1 – Social and Physical Infrastructure and New Developments; and
 - Policy CF14 – Surface Water Disposal.
- 8.5 Both parties agree that the proposed development is in accordance with all policies listed above subject to appropriate obligations/conditions.
- 8.6 Both parties agree that there is no conflict with the adopted Local Plan.
- 8.7 Both parties agree that that the NPPF is a significant material consideration in the determination of this appeal.

9. Emerging Local Policy

- 9.1 The now withdrawn Castle Point Local Plan (2018-2033) was found sound by the examining Local Plan Inspector. Despite this, a decision was taken not to adopt the new Local plan and Members agreed to formally withdraw this Plan.
- 9.2 The parties agree that the policies of the now withdrawn Local Plan, including policy HO14 (land at Brook Farm) are now afforded no weight in the determination of this appeal. The parties also agree that the withdrawn Local Plan cannot be afforded any weight in the decision-making process.
- 9.3 The parties agree that weight may be afforded to relevant parts of the evidence base which informed the now withdrawn Local Plan. The parties respective cases in this respect are set out within Proofs of Evidence.

9.4 The Council is currently preparing a new Local Plan for the borough. This process has now reached formal Regulation 18 stage for consultation.

9.5 The level of weight to be afforded to the emerging Local Plan will be set out in Proofs of Evidence, with reference to paragraph 49 of the NPPF.

10. National Planning Policy Framework (NPPF)

10.1 The parties agree that the NPPF (December 2024) provides guidance on the weight that should be attached to policies within an adopted development plan. The parties agree that the NPPF is a very important material consideration in the determination of this appeal but that it does not change the statutory status of the Development Plan as the starting point for decision making.

11. Housing Land Supply & Housing Delivery Test (HDT)

11.1 The parties agree that the Council has a significant shortfall in the delivery of market and affordable housing and the Appeal Scheme, including 173 new dwellings, would make a material contribution towards local housing supply.

11.2 A separate stand-alone Statement of Common Ground will be prepared in relation to the extent of the Council's housing land supply shortfall.

11.3 The parties agree that the latest Housing Delivery Test (HDT) result for Castle Point (2023) is 54% triggering the NPPF's presumption in favour of sustainable development (paragraph 11).

12. Affordable Housing Need

12.1 The parties agree that there has been a significant shortfall in affordable housing provision in the Borough. The appeal proposals will provide 50% affordable housing on site which would equate to 87 new affordable homes.

12.2 The parties agree that this proposed provision represents a significant contribution to meeting the affordable housing needs of the borough.

12.3 The parties, however, differ as to how they describe the weight to be afforded to this provision. The Council considers significant weight should be afforded to the affordable housing provision from the appeal site. The appellant considers the weight should be very substantial. The party's respective cases on the level of weight to be afforded to the proposed affordable housing provision will be set out in Proofs of Evidence.

13. Green Belt

13.1 The parties also agree that Green Belt purposes d (to preserve the setting and special character of historic towns and e (to assist in urban regeneration, by encouraging the recycling of derelict and other urban land) are not relevant to the determination of this appeal.

14. Grey Belt

- 14.1 For the purposes of the definition of Grey Belt found at Annex 2: Glossary of the NPPF (Dec 2024) the parties agree that the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would not provide a strong reason for refusing or restricting the development.
- 14.2 The parties also agree that the development would comply with the following criteria set out at paragraph 155 of the NPPF:
- The development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan (Castle Point borough);
 - There is a demonstrable unmet need for the type of development proposed with reference to foot note 56 of the NPPF;
 - The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the NPPF;
- 14.3 The parties agree that subject to the completion of an appropriate section 106 agreement the development meets the Golden Rules set out at paragraph 156 of the NPPF. These being:
- Affordable housing which reflects paragraph 157 of the NPPF (i.e. 50% on-site contribution);
 - Necessary improvements to local or national infrastructure; and
 - The provision of new, or improvements to existing, green spaces that are accessible to the public.
- 14.4 The parties also agree that development which complies with the Golden Rules should be given significant weight in favour of the grant of permission.

15. Landscape and Visual

- 15.1 The parties agree that the appeal site does not fall within a valued landscape, within the meaning of paragraph 187(a) of the NPPF.
- 15.2 The parties agree that there would be a minor adverse effect on local character, landscape condition, scenic quality and tranquillity as a result of the proposals at completion plus 15 years in line with the conclusions of the appellant's Landscape and Visual Impact Assessment (LVIA) dated 1st June 2022.

16. Agreed Material Considerations

- 16.1 With reference to the Decision Notice and officers report to Planning Committee, the parties agree that the following material considerations on the planning application are acceptable in planning terms subject to conditions/planning obligation where relevant:

The Scale and Form of Development

- 16.2 Paragraph 19.2 of the officer Committee report confirms that *"The surrounding area is generally characterised by detached and semi-detached houses, ranging from single to two and a half storey in form. Within the context of the surrounding development the proposed houses are considered to be consistent with the general scale and form of development in the area."*

- 16.3 This section of the Committee also sets out that the proposal includes the provision of two apartment blocks and it is clear that the setting of the proposed apartment blocks will ensure that they have a minimal impact on the character and appearance of the area and will add an opportunity for the provision of smaller housing units which are generally absent from the area, but for which a demand is known to exist.
- 16.4 Paragraph 19.4 of the Committee report confirms that *"no objection is raised to the scale and form of the development proposed."*

The Density and Mix of Proposed Housing

- 16.5 Paragraph 20.7 of the officer Committee report confirms that *"The proposed development identifies the provision of 12 1-bed units (7%), 40 x 2-bed units (23%), 73 3-bed units (42%) and 48 (28%) of the properties will be 4+ -bedroomed units. The housing mix proposed closely reflects identified local housing need."*

Design and Layout

- 16.6 The proposed development fully conforms with local design requirements, namely those of the Council's adopted Residential Design Guide (RDG) subject to conditions as appropriate to be agreed. No objection is raised to the proposed development on design and layout grounds.

Access

- 16.7 Paragraph 22.1 of the officer Committee report confirms that *"The proposal has been considered in detail by the Highway Authority which has raised no objection to the proposal on highway grounds, subject to conditions which can be appended to the grant of any consent. No objection is therefore raised to the proposal on the basis of access, highway safety or highway capacity."*

Parking

- 16.8 Paragraph 23.11 of the Committee report confirms that *"The scheme achieves some 400 car parking spaces which exceeds the minimum parking standards and no objection is therefore raised to the proposal on this basis."*

Security

- 16.9 Paragraph 24.1 of the Committee report sets out that *"The key principles of secured by design have been followed in the development of the proposed layout which avoids easy opportunities for crime and anti-social behaviour and achieves good levels of natural surveillance on all routes to residential properties. The development will be well lit, and all dwellings will have a 'defensible space' with a clearly defined boundary between private and public space."*
- 16.10 Paragraph 24.2 of the Committee report confirms that *"No objection to the proposal is raised on the basis of security."*

Flood Risk and Drainage

- 16.11 The submitted strategy has been considered by the Lead Local Flood Authority (LLFA) and found to be broadly acceptable. The LLFA does, however, request the imposition of conditions on the grant of any consent requiring the submission of a detailed drainage scheme for the site, the control of surface water and ground water run off during the construction period and the provision of appropriate maintenance arrangements.

Ecology and Trees

- 16.12 Given the nature of the proposed development and its isolation from the internationally designated sites, it is not considered that operational activity would be likely to give rise to a significant adverse impact on the designated sites.
- 16.13 No objection is raised to the proposed development in relation to badgers, bats, birds, hazel dormice, invertebrates, reptiles and other notable species subject to appropriately worded conditions.

Biodiversity Net Gain

- 16.14 As currently presented the ecological impact of the proposed development may be appropriately mitigated to ensure that there is no harm to the biodiversity value of the site.
- 16.15 The appellant has submitted a BNG calculation which identifies that at the present time the site is of relatively low biodiversity value and that opportunity exists to secure an overall increase in biodiversity. The submitted biodiversity report identifies the provision of 10% BNG despite this not being a mandatory requirement for this planning application.

The Provision of Open Space

- 16.16 Paragraph 36.1 of the officer Committee report confirms that *"Some 10ha is proposed, to include a range of different experiences including wetland areas, traditional orchard, wet grasslands, scrub grasslands and meadow grasslands which are all interlinked and accessible, connecting to the wider footpath network."*
- 16.17 Paragraph 36.3 of the Committee report confirms that *"No objection is therefore raised to the proposal on the basis of inadequate provision of open space."*

Sustainability

- 16.18 The Council acknowledge that the construction period of the proposed development will result in some economic gain through direct employment, the supply chain, and in the long-term stewardship of the development, plus services provided to new residents and by new residents to the local area. The new development will also potentially provide a pool of labour for local businesses and the public and voluntary sectors.
- 16.19 In terms of the social objective, the proposal seeks to secure a range of housing types and sizes, including a significant element of affordable housing and a significant area of open space. The proposal may be assumed to have the potential to support strong, vibrant and healthy communities.

- 16.20 In terms of the environmental objective, the site does therefore offer the opportunity for alternative means of travel than the private car.

Health Impact Assessment

- 16.21 As set out at paragraph 41.12 of the officer Committee report, *"the proposal has the capacity to improve the physical and mental health and well-being, not only of future residents, but as a consequence of access to the open space being available to all, as well as to existing residents."*

Loss of Agricultural Land

- 16.22 The land is not currently used for agricultural purposes and makes no contribution to the availability of locally produced food. Development of the site will not therefore have an adverse impact on local food production.
- 16.23 In the absence of any demonstration that the land is capable of being farmed economically and any policy provision at either local or national level to require the retention of moderate quality land for agricultural purposes, there is no robust basis on which an objection to the proposal on the grounds of the loss of agricultural land can be sustained. No objection is therefore raised on this basis.

17. Consultees

- 17.1 The parties agree that, the proposed development, at the time it was presented to Planning Committee on the 19th March 2024, did not attract objection from the following technical consultees (subject to where requested, their requirements being met by condition or planning obligation):

- Essex County Council Highway Authority;
- Essex County Council Fire and Rescue;
- Essex County Council Infrastructure Planning Officer;
- Essex County Council Green Infrastructure Team;
- Essex County Council Lead Local Flood Authority;
- Environment Agency;
- Anglian Water
- Essex Police;
- NHS England;
- Natural England;
- UK Power Networks;
- Invertebrate Conservation Trust (Buglife);
- Essex Wildlife Trust;
- CPBC Environmental Health Officer;
- CPBC Legal Services
- CPBC Streetscene; and
- CPBC Housing Manager.

18. Refusal reasons

Reason 1 – Green Belt

18.1 The parties agree that:

- The appeal proposals demonstrate compliance with the requirements of paragraphs 155 and 156 of the new NPPF including meeting the Golden Rules;
- That development which complies with the Golden Rules should be given significant weight in favour of the grant of permission as per paragraph 158 of the new NPPF;
- In relation to any effect upon Green Belt purposes, that this is only in relation to purposes a) to c). The parties will set out their respective positions with regard to the site's contribution to the purposes of the Green Belt in evidence;
- That there is no non-Green Belt harm associated with these proposals; and
- Where the appeal site is not considered to constitute Grey Belt land, only if the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations should planning permission should be granted.

19. Benefits of the Proposal

19.1 The appellant and the LPA agree the benefits of the proposal include:

- Contribution towards local housing supply;
- Provision of affordable housing;
- Economic benefits;
- Provision of new open space; and
- At least a 10% Biodiversity Net Gain (BNG).

20. Planning Conditions

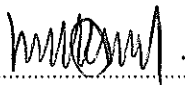
20.1 The LPA will provide a set of draft conditions in line with the agreed appeal timetable.

21. Matters Not Agreed

21.1 The following areas of dispute are:

1. Whether or not the appeal site comprises Grey Belt land within the NPPF definition with reference to the contribution the appeal site makes to Green Belt purposes a) and b);
2. Whether or not the proposed development constitutes inappropriate development in the Green Belt;
3. The level of harm to the openness of the Green Belt;
4. The level of harm to Green Belt purposes a (to check the unrestricted sprawl of large built-up areas), b (to prevent neighbouring towns merging into one another) and c (to assist in safeguarding the countryside from encroachment);
5. The extent of the Council's lack of 5-year housing land supply;
6. The level of weight to be afforded to the provision of new market housing;
7. The level of weight to be afforded to the delivery of 50% on-site affordable housing;
8. The appropriate affordable housing tenure mix; and
9. The level of weight to be afforded to each of the benefits of the development.

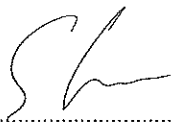
Signed on behalf of the Appellant


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Name: Matthew Wood

Position: Director, Phase 2 Planning

Signed on behalf of the Local Planning Authority


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Name: Stephen Garner BSc (Hons) MSc MRTPI

Position: Assistant Director Development Services